IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3313 OF 1995

M/s. Morris Electronics Ltd. ..Petitioner

Vs.

Shri R.J. Hiwale ..Respondent

Mr. A.G. Damale for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : November 26, 2007.

P.C.:

1. Heard Mr. Damale the learned counsel for the petitioner. By the impugned order dated 28/4/1995 the learned Presiding Officer of the II Labour Court at Pune while rejecting the Application at Exh.29 proceeded to frame the following preliminary issue:-

> "Whether the enquiry conducted against the Second party workman is fair, proper and in accordance with the principles of natural justice?"

2. It appears that the first party-employer, the present petitioner, wanted one more issue to be decided as a preliminary issue, namely, the legality and propriety of the findings of the Enquiry Officer. However, the learned Presiding Officer did not agree to frame the second issue as the preliminary issue and hence this petition, which has been pending before this court for the last more than 12 years for some reason or the other and that too at the admission stage. The petition was also dismissed on two occasions and came to be restored.

3. I do not find any error committed by the learned Presiding Officer of the Labour Court so as to call for interference in the impugned order under Article 227 of the Constitution. If the preliminary issue framed in the impugned order is decided against the first party-employer, it is required to conduct a de novo enquiry before the Labour Court into the charges allegedly framed against the second party workman and as of now it cannot be certainly said that the said preliminary issue framed wold not be decided against the employer. The verdict on the preliminary

issue may be either way. If it is decided against the employer, there will be de novo enquiry and it will be for the Labour Court to decide whether the charges have been proved on the basis of the evidence that may be adduced before it.

4. Hence, no interference is called for in the impugned order in exercise of the supervisory powers of this Court under Article 227 of the Constitution.

5. The petition is rejected summarily. The II Labour Court at Pune is directed to hear and decide Reference (IDA) No. 424 of 1988 as expeditiously as possible and in any case within a period of six months from the receipt of writ from this court.

6. Writ to go forthwith.

(B.H. Marlapalle,J.)